



Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, S.W., Suite 3-B443
Washington, D.C. 20554

December 23, 2003

DA 03-4087

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Oscar Alvarez
Connect2 Internet Networks, Inc.
26 Bay Street
Staten Island, NY 10301

Re: Notice of Debarment, File No. EB-03-IHD-0377

Dear Mr. Alvarez:

Pursuant to section 54.521 of the rules of the Federal Communications Commission (the "Commission"), by this Notice of Debarment you are hereby debarred from the schools and libraries universal service support mechanism for a period of three years.¹

On August 21, 2003, the Enforcement Bureau (the "Bureau") sent you a Notice of Suspension and Proposed Debarment (the "Notice of Suspension").² That Notice of Suspension was published in the Federal Register on October 2, 2003.³ The Notice of Suspension suspended you from the schools and libraries universal service support mechanism⁴ and described the basis for your proposed debarment,⁵ the applicable debarment procedures,⁶ and the effect of debarment.⁷

¹ See 47 C.F.R. §§ 0.111(a)(14), 54.521.

² Letter from Maureen F. Del Duca, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Oscar Alvarez, Notice of Suspension and Proposed Debarment, 18 FCC Rcd 16668 (2003).

³ 68 Fed. Reg. 58836 (Oct. 2, 2003).

⁴ See Notice of Suspension, 18 FCC Rcd at 16668-69 (imposing suspension pending the Bureau's final debarment determination) (Attachment 1).

⁵ See *id.*, 18 FCC Rcd at 16669 (describing the basis for your proposed debarment).

⁶ See *id.*, 18 FCC Rcd at 16670 (describing procedures to contest proposed debarment).

⁷ See *id.* (describing effect of proposed debarment).

Pursuant to the Commission's rules, any opposition to your suspension or its scope or to your proposed debarment or its scope had to be filed with the Commission no later than thirty (30) calendar days from the earlier date of your receipt of the Notice of Suspension or publication of the Notice of Suspension in the Federal Register.⁸ The Commission did not receive any such opposition.

As discussed in the Notice of Suspension, on May 20, 2003, you pled guilty attempting to persuade two school administrators not to show to Commission auditors a letter signed by your employer that falsely represented that the school could participate in the E-Rate program at no cost.⁹ Such conduct constitutes the basis for your debarment, and your conviction falls within the categories of causes for debarment under section 54.521(c) of the Commission's rules.¹⁰ For the foregoing reasons, you are hereby debarred for a period of three years from the debarment date, i.e., the earlier date of your receipt of this Notice of Debarment or its publication date in the Federal Register.¹¹ Debarment excludes you, for the debarment period, from activities "associated with or related to the schools and libraries support mechanism," including "the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism."¹²

Sincerely yours,

William H. Davenport
Deputy Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Joel M. Cohen, Greenberg Traurig, LLP (Via Certified Mail, Return Receipt Requested)
Kristy Carroll, USAC (Via E-mail)

⁸ See 47 C.F.R. § 54.521(e)(3) and (4). That date occurred no later than November 1, 2003. See *supra* note 3.

⁹ Notice of Suspension, 18 FCC Rcd at 16669.

¹⁰ Notice of Suspension, 18 FCC Rcd at 16669-70; 47 C.F.R. § 54.521(c).

¹¹ See Notice of Suspension, 18 FCC Rcd at 16670.

¹² See 47 C.F.R. §§ 54.521(a)(1), 54.521(a)(5), 54.521(d); Notice of Suspension, 18 FCC Rcd at 16670.

Attachment 1



Federal Communications Commission
Washington, D.C. 20554

August 21, 2003

DA 03-2706

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Oscar Alvarez
Connect2 Internet Networks, Inc.
26 Bay Street
Staten Island, NY 10301

Re: Notice of Suspension and of Proposed Debarment, File No. EB-03-IHD-0377.

Dear Mr. Alvarez:

The Federal Communications Commission ("FCC" or "Commission") has received notice of your May 20, 2003 conviction pursuant to 18 U.S.C. § 1512 for misleading conduct toward another person: (1) to influence, delay, or prevent the testimony of any person in an official proceeding; and (2) with the intent to cause and induce another person to alter, destroy, mutilate and conceal objects with the intent to impair the objects' integrity and availability for use in an official proceeding.¹³ Consequently, pursuant to 47 C.F.R. § 54.521, this letter constitutes official notice of your suspension from the schools and libraries universal service support mechanism. In addition, the Enforcement Bureau ("Bureau") hereby notifies you that we are commencing debarment proceedings against you.¹⁴

I. Notice of Suspension

Pursuant to section 54.521(a)(4) of the Commission's rules,¹⁵ your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the

¹³ Any further reference in this letter to "your conviction" refers to your May 20, 2003 guilty plea and conviction of this count based on your attempt to persuade two school administrators not to reveal evidence to FCC auditors conducting an official investigation into violations by your employer, Connect2 Internet Networks, Inc. ("Connect2") of the FCC rules governing the E-Rate schools and libraries internet funding program ("E-Rate program"). See *United States v. Alvarez*, Criminal Docket No. 1:03cr634, Felony Information at 1-2 (S.D.N.Y. filed May 20, 2003) ("*Alvarez Felony Information*").

¹⁴ 47 C.F.R. § 54.521; 47 C.F.R. § 0.111(a)(14) (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings pursuant to 47 C.F.R. § 54.521).

¹⁵ 47 C.F.R. § 54.521(a)(4). See *Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9225-9227, ¶¶ 67-74 (2003) ("*Second Report and Order*").

schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.¹⁶ Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the Federal Register.¹⁷

Suspension is immediate pending the Bureau's final debarment determination. You may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the Federal Register, whichever comes first.¹⁸ Such requests, however, will not ordinarily be granted.¹⁹ The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.²⁰ Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.²¹

II. Notice of Proposed Debarment

A. Reasons for and Cause of Debarment

The Commission's rules establish procedures to prevent persons who have "defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism" from receiving the benefits associated with that program.²² On May 20, 2003, you pleaded guilty to attempting to persuade two school administrators not to show to FCC auditors a letter signed by your employer that falsely represented that the school could participate in the E-Rate program at "absolutely no cost to the school."²³ These actions constitute the conduct or transactions upon which this debarment proceeding is based.²⁴ Moreover, your conviction on the basis of these acts falls within the

¹⁶ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 U.S.C. § 254; 47 C.F.R. §§ 54.502-54.503; 47 C.F.R. § 54.521(a)(4).

¹⁷ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 69; 47 C.F.R. § 54.521(e)(1).

¹⁸ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(4).

¹⁹ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70.

²⁰ 47 C.F.R. § 54.521(f).

²¹ *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.521(e)(5), 54.521(f).

²² *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 66.

²³ *See United States v. John Angelides, John Dotson, Oscar Alvarez, and Gary Blum*, U.S. District Court, Southern District of New York, Complaint at 29 (S.D.N.Y. filed Dec. 17, 2003). The incriminating letter was signed by John Angelides, owner and CEO of Connect2. *Id.* Further, the conduct for which you were convicted served to conceal and further a fraudulent scheme unlawfully to obtain E-Rate program funds. *See generally id.*

²⁴ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(2)(i).

Oscar Alvarez
Connect2 Internet Networks, Inc.
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categories of causes for debarment defined in section 54.521(c) of the Commission's rules.²⁵ Therefore, pursuant to section 54.521(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

B. Debarment Procedures

You may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the Federal Register.²⁶ Absent extraordinary circumstances, the Bureau will debar you.²⁷ Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.²⁸ If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of its decision in the Federal Register.²⁹

C. Effect of Debarment

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for at least three years from the date of debarment.³⁰ The Bureau may, if necessary to protect the public interest, extend the debarment period.³¹

Please direct any responses to the following address:

Diana Lee
Federal Communications Commission
Enforcement Bureau

²⁵ "Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism." 47 C.F.R. § 54.521(c). Such activities "include the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding schools and libraries support mechanism described in this section ([47 C.F. R.] § 54.500 *et seq.*)." 47 C.F.R. § 54.521(a)(1).

²⁶ *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.521(e)(2)(i), 54.521(e)(3).

²⁷ *Second Report and Order*, 18 FCC Rcd at 9227, ¶ 74.

²⁸ *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(5).

²⁹ *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 C.F.R. § 54.521(f).

³⁰ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 C.F.R. §§ 54.521(d), 54.521(g).

³¹ *Id.*

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Connect2 Internet Networks, Inc.
August 21, 2003
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Investigations and Hearings Division
Room 6-C326
445 12th Street, S.W.
Washington, D.C. 20554

If you submit your response via hand-delivery or non-United States Postal Service delivery (e.g., Federal Express, DHL, etc.), please send your response to Ms. Lee at the following address:

Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418-1420 or by e-mail at diana.lee@fcc.gov. If Ms. Lee is unavailable, you may contact William Davenport by telephone at (202) 418-1420 and by e-mail at william.davenport@fcc.gov.

Sincerely yours,

Maureen F. Del Duca
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Joel M. Cohen, Greenberg Traurig, LLP
Kristy Carroll, USAC